

United States District Court
Western District of New York

United States of America,

Plaintiff

vs

Motion for Adjournment of Proposed
Dismissal Date Pursuant to Rule 48(b)

Aida Ramirez-Arellano,

Defendant

Docket № 16-M-141-HKS

The defendant, Aida Ramirez-Arellano, by the undersigned, hereby moves this Court for an order granting the following relief:

1. Extension of the time before the case will be dismissed pursuant to Rule 48(b) of the Federal Rules of Criminal Procedure.

Date: January 30, 2017

Respectfully submitted,

/s/ Mark J. Mahoney

Mark J. Mahoney, Esq.
HARRINGTON & MAHONEY
70 Niagara Street, 3rd Floor
Buffalo, NY 14202-3407
Ph: 716-853-3700
Facs: 716-853-3710
mmahoney@harringtonmahoney.com
(Attorneys for Aida Ramirez-Arellano)

TO: Brian J. Counihan, Esq.
Assistant United States Attorney
138 Delaware Avenue
Buffalo, New York 14202

United States District Court
Western District of New York

United States of America,

Plaintiff

vs

Affirmation in Support of Motion for
Adjournment of Dismissal Pursuant to
Rule 48(b)

Docket № 16-M-141-HKS

Aida Ramirez-Arellano,

Defendant

Mark J. Mahoney affirms to be true and states under penalty of perjury as follows:

1. My firm, Harrington & Mahoney, represents the defendant, Aida Ramirez-Arellano, in this matter.

2. The government has previously made an application for an adjournment of the 48(b) date [Dkt. #9] and that was granted. This Court set the date of February 10, 2017 as the date for potential dismissal of the complaint pursuant to Rule 48(b). [Dkt. #10] I hereby request an extension of that “48(b) dismissal date” until April 10, 2017. This is the first such application I have made, and I make it for what I consider to be important reasons.

3. Assistant Federal Public Defender Brian Comerford has represented Ms. Ramirez through these proceedings. However, the law firm of Gibson, Dunn & Crutcher LLP has agreed to represent Ms. Ramirez in these proceedings.

4. I have been asked to serve as local counsel and have submitted my Notice of Appearance today, [Dkt. #12] following the filing of the Substitution of Counsel form of Goutam U. Jois, lead counsel. [Dkt. #11]

5. In a case such as this, this period following the filing of a complaint and prior to indictment is a most critical stage in which a great deal of activity has to be undertaken notwithstanding the press of other equally important matters. Sometimes this results in too short amount of time in order to accomplish what defense counsel and the government would need to do to resolve a case without proceeding to indictment.

6. In the absence of postponement, a great deal of pressure is put on the government to obtain an indictment, which is an unnecessary expenditure of the

government's time and makes it incrementally more difficult to persuade the government to allow the case to be disposed on a basis which might be accepted prior to indictment.

7. Therefore, I request that the proposed "48(b) dismissal date" be extended an additional 60 days.

Government Consent

8. The government has been acting diligently to resolve these charges. Brian Counihan, the Assistant United States Attorney, and I have discussed a possible resolution. We discussed the intent to file a motion to adjourn this 48b dismissal date and he stated that he would not oppose this motion. We are both earnestly and in good faith attempting to resolve the matter and will continue to do so.

Conclusion

9. For the reasons articulated herein, and pursuant to the provisions of Title 18, U.S.C., Section 3161(h)(7)(A)&(B) the ends of justice and the interests of the government, the public and the defense in the efficient and fair and effective resolution of criminal cases are served by the adjournment, and warrant exclusion of all the time for this adjournment, and outweigh the interest of the public, the defendant, and the government in a speedy trial, within the meaning of Title 18, United States Code, Section 3161(h)(7)(A)&(B).

10. There would be no benefit to the public, the government or the accused in forcing the government to convene a grand jury, and expend the time needed to present a case, when a pretrial disposition is just as likely and possible under a complaint without such an expense and delay.

11. The defense's interest in having counsel of choice, and adequate time for that counsel to prepare and to perform his functions, also justify the extension of time.

WHEREFORE, the undersigned respectfully requests that the Court grant the foregoing motion and extend the time for dismissal of this case to April 10, 2017 or some date thereafter.

Dated: January 30, 2017

/s/ Mark J. Mahoney

Mark J. Mahoney

HARRINGTON & MAHONEY

70 Niagara Street, 3rd Floor

Buffalo, NY 14202-3407

(716) 853-3710 (*facsimile*)

(716) 853-3700 (*voice*)

mmahoney@harringtonmahoney.com

(Attorneys for Aida Ramirez-Arellano)